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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,206	11/16/2001	Brian K. Linstedt	J-3259A	8075

28165 7590 12/16/2003
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EXAMINER

HWU, DAVIS D

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,206

Applicant(s)

LINSTEDT ET AL. *LC*

Examiner

Davis Hwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 and 34-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-44 is/are allowed.
- 6) ☒ Claim(s) 1-14, 19-21, 26-28 and 46-48 is/are rejected.
- 7) ☒ Claim(s) 15-18, 22-25, 29-32 and 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7-13, 19, 20, 27, 28, 46, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halaby, Jr.

The patent to Halaby, Jr. discloses an automated sprayer comprising:

- a container 27 suitable for storing a spray material;
- a tray suitable to receive the container in an inverted fashion (see Figure 4);
- a metering system for controlling flow of the spray material;
- a spray head 7 for spraying the material during a spray cycle;
- a control/timer 45 for initiating the spray cycle and automatically terminating it.

Halaby, Jr. does not disclose spraying the walls of an enclosure with a cleanser, however, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. It would have been obvious to one having ordinary skill in the art that the device of Halaby, Jr. is capable of being used to spray walls of an enclosure with a cleanser. Regarding claim 7, since the metering process of Halaby, Jr. is controlled by the control/timer 45, there is a slight delay in activating the metering since 45 controls a

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pump which provides the metering capability. Regarding claims 10 and 11, it is well known in the art that many control/timer devices include a light or sound alarm when the device is activated. Regarding claim 12, since the control/timer 45 can be actuated by an electromechanical means, i.e. a switch, it would have been obvious to one having ordinary skill in the art that the switch can also be designed to shut-off the system if necessary and that reactivating the spray cycle would require the switch to be turned on again. Claim 20 is an obvious matter of design choice depending on user preference.

3. Claims 5, 6, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halaby, Jr. in view of Hirst.

The patent to Halaby, Jr. discloses except for a hook as recited. The design patent to Hirst teaches a shower dispenser comprising a hook which can be used to attach the dispenser to the sprayer on a shower spout. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Halaby, Jr. by providing a hook as taught by Hirst in order to be able to clean the walls of a shower stall. The use of a suction cup as recited in claim 6 would have been an obvious matter of design choice since the device of Halaby, Jr. is made to be wall mounted.

4. Claims 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halaby, Jr. in view of Ask.

The patent to Ask teaches sprayer comprising a raised member 7 for puncturing a seal covering an opening of a container 16. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device

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of Halaby, Jr. by incorporating a raised member to puncture the seal of the container as taught by Ask to initiate flow of material into the metering device.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Halaby, Jr. in view of McDermott et al.

The patent to McDermott et al. teaches storage tank cleaner comprising a rotating nozzle which provides uniform spraying to the inside of the tank. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Halaby, Jr. by providing a rotatable fluidic oscillator for the spray head as taught by McDermott et al. to provide uniform spraying to the walls.

Allowable Subject Matter

6. Claims 15-18, 22-25, 29-32, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 34-44 are allowed.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Pollinzi, Pulgiese, and Stern et al. are pertinent to Applicant's invention.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is 703-305-1663. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703)308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9302.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0861.

A handwritten signature in black ink, appearing to read 'Davis Hwu', with a long horizontal stroke extending to the right.

Davis Hwu